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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

AUG 24 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of Petition of the )  
Connecticut Department of Public Utility ) CC Docket No. 96-115  
Control for Waiver of the Customer )  
Proprietary Network Rules by the )  
Federal Communications Commission )

COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

I. Introduction.

In its August 7, 1998, notice in the above-captioned docket, this Commission solicited comments on the petition filed by the Connecticut Department of Public Utility Control ("Department") with the Commission on July 20, 1998. The Department's petition seeks a waiver of the Customer Proprietary Network Information ("CPNI") rules contained in 47 C.F.R. § 64.2007(f)(2)(iii) and (v), which set forth requirements for the notification that must precede the affirmative customer approval necessary for the disclosure of CPNI to third parties, in order to facilitate the local exchange election process ("LEEP") in Connecticut. MCI hereby submits its Comments in support of the Department's petition.

As the Department briefly explained in its petition, the LEEP was initiated as a consequence of the Department's decision to approve the reorganization of the Southern New England Telephone Company ("SNET") into distinct wholesale and retail business units, SNET and SNET America, Inc. (SAI), respectively. While approving the basic elements of the restructuring, the

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Department declined to permit SNET's proposed transfer of customers to SAI and instead determined to conduct an impartial election process to permit certain business and residential subscribers the opportunity to choose their new local service provider from among the competitive carriers certified to provide local service in Connecticut. Originally scheduled for March, 1998, balloting has now been deferred indefinitely, pending resolution of a number of issues, including the subject of the Department's petition now before this Commission.

The LEEP represents a unique and unprecedented opportunity not only for Connecticut's consumers but also for competitive local exchange carriers in the state as well. MCI is an active participant in the LEEP committee formed at the behest of the Department in its Docket No. 97-08-12 to address the technical and practical aspects of the ballot process. The obstacles inherent in the ballot process have become clear to all participants on the LEEP committee. Equally clear is that these obstacles, regulatory and otherwise, must be addressed if the ballot process is to proceed smoothly and succeed in the Department's stated goal of jump-starting local competition in the state.

## **II. The Need for a Waiver**

One problem is that the ballot process, as contemplated by the Department, the LEEP participants and the ballot administrator, will not conform to this Commission's current CPNI

rules. As currently envisioned, the ballot forms will not contain customer notification sufficient to enable the customer to make an informed decision as to whether to permit the use, disclosure or access to CPNI, as required by the Second Report and Order<sup>1</sup> in this docket and the regulations promulgated thereby. The LEEP committee has concluded, after considerable discussion and the weighing of a number of options, that to include a notice of CPNI rights and signature section to the ballot would make the ballot too complicated. Absent a waiver of the CPNI requirement contained in 47 C.F.R. § 64.2007(f)(2)(iii) and (v), the Department would be forced to include significant notification provisions on the ballot, rendering the ballot cumbersome, complex and customer unfriendly -- and the LEEP itself ultimately ineffective.

Because some of the required elements of a complete CPNI notification will not be included in the LEEP ballot and because it will not be feasible to secure each customer's affirmative approval to disclose her CPNI to her new local service provider -- especially in the case of customers who fail to complete and return the ballot -- failure to grant the requested waiver would preclude SNET's disclosure of a customer's CPNI to her new local service provider on a timely basis. Section 222(c) prohibits the disclosure of CPNI to another carrier without the affirmative

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<sup>1</sup> Second Report and Order and Further Notice of Proposed Rulemaking, FCC 98-27 (released Feb. 26, 1998).

approval of the customer,<sup>2</sup> and, under the Commission's CPNI rules, such approval must be predicated on a proper notification. Thus, in the absence of such a waiver, SNET will not be permitted to disclose a customer's CPNI automatically to her chosen carrier or to the carrier to which the customer is ultimately allocated (in the case of customers who do not choose their local service providers).

As the Commission has recognized in the Second Report and Order, in order to initiate appropriate service to a customer who has switched from one local service provider to another, it is necessary for the new provider to obtain the customer's CPNI from the previous carrier. Such data is so vital for the provision of competitive local service that the failure to provide it raises significant competitive concerns and may well constitute an unreasonable practice under Section 201(b) of the Communications Act.<sup>3</sup> In the absence of a waiver, the new local service provider will not have each customer's CPNI from SNET in time for a seamless, uninterrupted transfer of service and will have to seek the customer's approval to obtain her CPNI from SNET, ensuring an interruption of service until the new carrier can obtain such approval. The additional cost of having to secure such approval and the inevitable delays in the initiation of service by the new

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<sup>2</sup> MCI has sought reconsideration of this aspect of the Second Report and Order so that a carrier could, and would be required to, disclose a customer's CPNI to another carrier to enable the latter to initiate service.

<sup>3</sup> Second Report and Order at ¶¶ 84-85.

provider would constitute an unacceptable social and economic burden that would undermine the Department's efforts to bring about local competition in Connecticut.

Accordingly, MCI agrees with the Department that the requested waiver is not only appropriate, but, like the LEEP itself, is in the best interests of Connecticut consumers and absolutely necessary to further the public interest in the rapid development of local competition.

Respectfully submitted,

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Dated: August 24, 1998

CERTIFICATE OF SERVICE

I, Sylvia Chukwuocha, do hereby certify that copies of the foregoing Comments of MCI Telecommunications Corporation were sent, on this 24th day of August, 1998, via first class mail, postage pre-paid, to the following:

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